

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 SHARON BARNUM, et al.,
11 Plaintiff(s),

12 v.

13 EQUIFAX INFORMATION SERVICES,
14 LLC,
15 Defendant(s).

Case No.: 2:16-cv-02866-RFB-NJK

Order

[Docket No. 156]

16 Pending before the Court is a motion to seal. Docket No. 156. The parties have filed a
17 joint supplement. Docket No. 201. The motion to seal relates to Exhibits 1, 3-9, 11-17, 21-22,
18 and 25 that were filed in relation to the motion for summary judgment. For the reasons discussed
19 below, the motion to seal is hereby **GRANTED** in part and **DENIED** in part. The Clerk's Office
20 is **INSTRUCTED** to maintain under seal all of the materials currently at issue, and Plaintiffs are
21 **ORDERED** to file public versions of documents as specified below.

22 With respect to Exhibits 1, 3, 4, 7, 8, 9, 11, 12, and 22, the only aspect being kept secret
23 are redactions concealing personal identifying information. *See* Docket No. 201 at 3-4, 6, and 10.
24 Such redactions are mandated by Local Rule IC 6-1(a) and Rule 5.2(a) of the Federal Rules of
25 Civil Procedure. No order is necessary for these redactions, so this aspect of the motion is
26 **DENIED** as unnecessary.

27 With respect to Exhibits 6, 13, 14, 15, 16, and 25, the request for sealing has been
28 withdrawn. *See* Docket No. 201 at 5, 7, 11. As such, that aspect of the motion to seal is **DENIED**

1 as moot. Copies of these exhibits shall be filed on the public docket no later than February 5,
2 2019.

3 With respect to the remaining exhibits, the Court has already determined that the motion
4 to seal is subject to the “compelling reasons” standard. Docket No. 198 at 1 n.2 (citing
5 *MediciNova, Inc. v. Genzyme Corp.*, 2017 WL 6028365, at *2 (S.D. Cal. Dec. 5, 2017)). The
6 compelling reasons articulated must outweigh the competing interests of the public in having
7 access to the judicial records and understanding the judicial process. *Kamakana v. City & County*
8 *of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006); *see also Pintos v. Pac. Creditors Ass’n*, 605
9 F.3d 665, 679 & n.6 (9th Cir. 2010) (courts must weigh “relevant factors,” including the public’s
10 interest in understanding the judicial process). The Ninth Circuit has indicated that “‘compelling
11 reasons’ sufficient to outweigh the public’s interest in disclosure and justify sealing court records
12 exist when such ‘court files might have become a vehicle for improper purposes,’ such as the use
13 of records to gratify private spite, promote public scandal, circulate libelous statements, or release
14 trade secrets.’” *Kamakana*, 447 F.3d at 1179 (citing *Nixon v. Warner Commc’ns Inc.*, 435 U.S.
15 589, 598 (1978)). “The mere fact that the production of records may lead to a litigant’s
16 embarrassment, incrimination, or exposure to further litigation will not, without more, compel the
17 court to seal its records.” *Kamakana*, 447 F.3d at 1179 (citing *Foltz v. State Farm Mut. Auto. Ins.*
18 *Co.*, 331 F.3d 1122, 1136 (9th Cir. 2003)).

19 Exhibit 5 is Equifax’s Maintenance Participant’s Workbook from March 2016, for which
20 Equifax has proposed redactions. *See* Docket No. 201-1 at 60-106 (redacted version). The
21 proposed redactions conceal precise keystrokes and codes that could be used to navigate and
22 manipulate consumer credit data. Docket No. 201-1 at 9-10. Hence, revealing this information to
23 the public could lead to identity theft, credit-reporting manipulation, and corporate theft. *Id.* The
24 Court finds the compelling reasons articulated for concealing this information outweighs the
25 public’s interest in having access to it. This aspect of the motion to seal is **GRANTED**.

26 Exhibit 17 is a Master Agreement between Equifax and non-party FIS Card, for which FIS
27 Card seeks outright sealing. Docket No. 161. FIS Card represents that this document includes
28 confidential and proprietary information, the revelation of which would be competitively

1 disadvantageous. *See* Docket No. 201-8. Compelling reasons were found to seal a similar
2 document in another case. *See Le v. Equifax Info. Servs., LLC*, 2017 U.S. Dist. LEXIS 161912, at
3 *3-4 (D. Nev. Sept. 29, 2017). The Court will similarly here allow this document to be sealed.
4 This aspect of the motion to seal is **GRANTED**.

5 Exhibit 21 is the declaration of Alicia Fluellen, for which Equifax has proposed redactions.
6 *See* Docket No. 158-15.¹ The proposed redactions conceal information on how to access and use
7 confidential information on Equifax's computer systems. *See* Docket No. 201-1 at 10. Such
8 information could be used by others to navigate and manipulate Equifax's systems. *See id.* The
9 Court finds the compelling reasons articulated for concealing this information outweighs the
10 public's interest in having access to it. This aspect of the motion to seal is **GRANTED**.

11 For the reasons discussed above, the motion to seal is hereby **GRANTED** in part and
12 **DENIED** in part.

13 IT IS SO ORDERED.

14 Dated: January 29, 2019

15
16 
Nancy J. Koppe
United States Magistrate Judge
17
18
19
20
21
22
23
24
25

26
27 ¹ The fact that the Court previously allowed these redactions under the lesser "good cause"
28 standard is not determinative of whether the redactions are appropriate under the more stringent
"compelling reasons" standard. *See, e.g., Aevoe Corp. v. AE Tech Co.*, 2014 WL 551563, at *2
(D. Nev. Feb. 7, 2014).